

Kevin H. Sharp

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA

v.

DANIEL VARAJAS

Case No. 3:11-cr-00188

The Honorable Kevin H. Sharp
U.S. District Court Judge

**JOINT MOTION TO ALLOW DEFENDANT TO WITHDRAW GUILTY PLEA
AND SET CASE FOR PLEA HEARING AND SENTENCING**

The United States, through David Rivera, Acting United States Attorney for the Middle District of Tennessee, and Alex Little, Assistant United States Attorney, and defendant Daniel Varajas, through defense counsel Ray McGowan, respectfully move this Court to allow the defendant to withdraw his guilty plea under Rule 11(d)(2)(B), set the case for a plea hearing on July 19, 2013 (at the time currently set for sentencing), and set a sentencing hearing to follow immediately thereafter at the same date and time. In support of this request, the parties submit the following:

1. On June 28, 2013, the Court held a sentencing hearing for the defendant. (R. 95.) At that hearing, an issue arose regarding whether the defendant had fully understood the consequences of his guilty plea at the time of the plea. As a result, the United States asked that the hearing be continued, and the Court granted that request, allowing the United States until July 12, 2013, to file a motion regarding the issue. (R. 96.)

2. After consultation, the parties agree that the “defendant can show a fair and just reason for requesting the withdrawal” of his guilty plea, *see* Fed. R. Crim. P 11(d)(2)(B), and that it is in the interests of justice to allow him to do so. Defense counsel has consulted with the